

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

IN RE:)
JOSEPH MARTIN THOMAS,) Chapter 11 Case No. 20-10334-TPA
Debtor) Related to Doc. Nos. 294, 425, and 442
)
IN RE:)
2374 VILLAGE COMMON DRIVE, LLC,) Chapter 11 Case No. 21-10118-TPA
Debtor) Related to Doc. Nos. 28 and 142
)
)
JOSEPH MARTIN THOMAS AND)
2374 VILLAGE COMMON)
DRIVE, LLC,)
Movants)
)
vs.)
)
WELLS FARGO BANK, NATIONAL)
ASSOCIATION; UNITED STATES)
OF AMERICA, SMALL BUSINESS)
ADMINISTRATION; ERIE COUNTY)
TAX CLAIM BUREAU; MILLCREEK)
TOWNSHIP TAX COLLECTOR;)
UNITED STATES OF AMERICA,)
INTERNAL REVENUE SERVICE;)
COMMONWEALTH OF)
PENNSYLVANIA, DEPARTMENT)
OF REVENUE; TIAA COMMERCIAL)
FINANCE, INC.; NORTHWEST)
SAVINGS BANK, NOW KNOWN AS)
NORTHWEST BANK; CORE ERIE)
MOB, L.P. and JOSEPH C. KRAMER,) Hearing Date and Time:
Respondents) June 3, 2021 at 10:30 a.m.

OBJECTION TO PROPOSED CONSENT ORDER

AND NOW, comes the Official Creditors' Committee ("Committee") for Tri-State Pain Institute, LLC ("Tri-State"), an affiliate of the Debtor Joseph Martin Thomas in a separate, but related proceeding for reorganization under Chapter 11 at Case No. 20-10049-TPA, by and through the Committee's counsel, Knox McLaughlin Gornall & Sennett, P.C., with this objection

to proposed Consent Order modifying this Court's *Order Denying Private Sale of Property and Confirming Public Sale of Property Free and Divested of Liens* dated May 13, 2021 (Case No. 20-10334, Doc. No. 425; Case No. 21-10118, Doc. No. 142), as follows:

1. On May 28, 2021, counsel for Wells Fargo Bank, National Association ("Wells Fargo") filed a proposed *Consent Order Modifying Sale Order of May 13, 2021* indicating in the opening paragraph that the Committee consented.

2. On June 1, 2021, the Court issued the proposed Consent Order which authorized Wells Fargo to delay funding the sale. The Court vacated the Order (Doc. No. 443) after being notified that the Committee had not consented.

3. Committee counsel participated in conversations regarding the proposed order but specifically refused to consent and informed all parties of the same by email dated May 28, 2021 at 3:08 p.m.

4. This Court's *Order Denying Private Sale of Property and Confirming Public Sale of Property Free and Divested of Liens* entered on May 13, 2021 ordered "Closing shall occur no later than May 31, 2021. The Debtors and the Purchaser shall cooperate fully with each other in order to facilitate a timely Closing and sign any and all other documents and take such actions as reasonably necessary to carry out the spirit and intent of this sale."

5. To date, Wells Fargo has failed to fund the closing.

6. Wells Fargo now asks for an additional eleven (11) days without a valid reason or explanation.

7. The Committee objects to an extension of time for Wells Fargo to fund the closing on the sale.

8. The Committee reserves the right to pursue any cause of action against Wells Fargo based upon its failure to fund the closing in a timely manner.

9. Counsel for the Committee continues to engage in active negotiations with counsel for Wells Fargo regarding a comprehensive settlement of Wells Fargo's outstanding claims.

WHEREFORE, the Committee respectfully requests that Wells Fargo be required to fund the closing on the sale forthwith, and that the Committee have such other and further relief as is reasonable and just.

Respectfully submitted,

KNOX McLAUGHLIN GORNALL &
SENNETT, P.C.
Attorneys for the Official Committee of Unsecured
Creditors for Tri-State Pain Institute, LLC

By: /s/ Guy C. Fustine
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on June 2, 2021, a copy of the Objection to Proposed Consent Order was served by first class, United States mail, postage pre-paid, and/or electronic service, as follows:

Via CM/ECF:

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Respectfully submitted,

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SENNETT, P.C.
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Creditors for Tri-State Pain Institute, LLC

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